

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

November 8, 2004

IN RE:

**BELLSOUTH TELECOMMUNICATIONS, INC.
2003 PRICE REGULATION INDEX**

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**DOCKET NO.
04-00163**

**ORDER APPROVING PRICE REGULATION FILING
BY BELLSOUTH TELECOMMUNICATIONS, INC.**

This matter came before Director Deborah Taylor Tate, Director Sara Kyle and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on July 26, 2004, for consideration of BellSouth Telecommunications, Inc.'s ("BellSouth") Computation of its 2003 Price Regulation Index and Service Price Index filing

BACKGROUND

BellSouth's Initial Price Regulation Plan

BellSouth filed its original application to operate under price regulation pursuant to Tenn Code Ann. § 65-5-209 with the Tennessee Public Service Commission (the "TPSC") on June 20, 1995.¹ The TPSC's January 23, 1996 Order implementing BellSouth's price regulation plan required BellSouth to reduce its rates by approximately 56.3 million dollars. BellSouth filed a petition for review² of the TPSC's Order, and through decisions and orders issued on October 1, 1997 and November 19, 1997, the Tennessee Court of Appeals vacated the TPSC's January 23, 1996 Order

¹ BellSouth's application was filed in TPSC Docket No 95-02614, which after remand from the Court of Appeals became TRA Docket No 95-02614

Thereafter, on October 27, 1998, the Authority deliberated on BellSouth's application for a price regulation plan and approved BellSouth's price regulation application with an effective date of October 1, 1995. The Authority's *Order Approving BellSouth Telecommunications, Inc.'s Application for Price Regulation Plan*, entered on December 9, 1998, set forth the following provisions for BellSouth's price regulation plan

Increases in BellSouth's initial rates for Basic Local Exchange Telephone Service shall not occur until December 1, 2002, consistent with Tenn. Code Ann. § 65-5-209(f)

Increases in BellSouth's rates for Call Waiting shall not occur until December 1, 2002, consistent with Tenn. Code Ann. § 65-5-209(h).

Annual adjustments in BellSouth's basic and nonbasic rates pursuant to Tenn. Code Ann. § 65-5-209(e) shall be calculated from December 1, 1998, and the calculation of the Service Price Index for basic and nonbasic services shall be based upon service volumes for the month of December for the year of the annual filing and upon service prices in effect on December 1, 1998 or as reset by the Authority under Tenn. Code Ann. § 65-5-207.

Annual adjustments in BellSouth rates for Interconnection Services pursuant to Tenn. Code Ann. § 65-5-209(g) shall be calculated from December 1, 1998²

The Authority's December 9, 1998 Order also provided that BellSouth's price regulation plan would be subject to the price regulation methodology as stipulated in *In re: United Telephone Southeast, Inc. Tariff No. 96-201 to Reflect Annual Price Cap Adjustment*, Docket No. 96-01423.³

The Consumer Advocate Division of the Office of Attorney General filed a petition for review in the Tennessee Court of Appeals on February 9, 1999, seeking a reversal of the Authority's December 9, 1998 Order. The Court of Appeals affirmed the Authority's Order in an opinion issued on January 10, 2000.

² *In re Application of BellSouth Telecommunications, Inc. for a Price-Regulation Plan*, Docket No. 95-02614, *Order Approving BellSouth Telecommunications, Inc.'s Application for Price Regulation Plan*, 21 (December 9, 1998)

³ See *In re United Telephone-Southeast, Inc. Tariff No. 96-201 to Reflect Annual Price Cap Adjustment*, Docket No. 96-01423, *Order Approving in Part and Denying in Part Tariff No. 96-201* (September 4, 1997)

BellSouth's Initial Price Regulation Filing

On June 26, 2000, BellSouth submitted to the Authority its first filing pursuant to its price regulation plan, consisting of calculations of its December 1, 1999 Price Regulation Index ("PRI") and Service Price Index ("SPI") pursuant to Tenn Code Ann. § 65-5-209. On December 4, 2000, BellSouth filed a revised computation of the December 1, 1999 PRI and SPI, wherein BellSouth reclassified and modified its categorization of basic and non-basic services to address the Authority's concerns and to reflect prior decisions of the Authority ⁴

At the January 9, 2001 Authority Conference, after review of the revised filing and the supporting information, the Authority determined that BellSouth's PRI and SPI for non-basic services had been calculated in accordance with Tenn. Code Ann § 65-5-209 and the methodology approved by the Authority, including all orders issued concerning United Telephone-Southeast's prior price regulation filings ⁵ Moreover, the Authority found that BellSouth's current prices for non-basic services were less than the maximum prices allowed under Tenn. Code Ann. § 65-5-209, thereby creating headroom within which future rate increases might be made According to the PRI and SPI, BellSouth had approximately 18.2 million dollars in available headroom for rates in its non-basic services category ⁶ Based on these findings, the Authority approved the non-basic SPI and PRI calculations in BellSouth's December 4, 2000 price regulation filing The Authority denied approval of the SPI and PRI indexes for basic services, having found that such services are subject to the four-

⁴ "Basic local exchange telephone services" and "non-basic services" are defined in Tenn Code Ann § 65-5-208(a) Tenn Code Ann § 65-5-209(f) provides that "the initial basic local exchange telephone service rates of an incumbent local exchange telephone company shall not increase for a period of four (4) years from the date the incumbent local exchange telephone company becomes subject to such regulation." This initial four-year freeze does not apply to rates for non-basic services, which may be increased as long as such increase complies with the formula set forth in Tenn Code Ann § 65-5-209(e)

⁵ See *Consumer Advocate Division v Tennessee Regulatory Authority*, No. M1999-01699-COA-R12-CV, 2000 WL 1514324 (Tenn Ct App Oct 12, 2000) (discussing price regulation methodology)

⁶ Headroom represents the difference between actual aggregate revenues and aggregate revenues allowable under the formula set forth in Tenn Code Ann § 65-5-209(e) In this instance, headroom had been created primarily due to access reductions, which had been partially offset by rate increases to Complete Choice Service and various custom calling services BellSouth did not propose to change any basic or non-basic rates in this filing

year price freeze set forth in Tenn Code Ann. § 65-5-209(f) and the indexes for those services are to be established at the end of the four (4) year price freeze.⁷

BELL SOUTH'S 2003 PRICE REGULATION PLAN

BellSouth filed its 2003 Price Regulation Plan, which is the subject of this docket, on June 1, 2004. This filing contains BellSouth's calculations of its 2003 PRI and SPI pursuant to Tenn. Code Ann. § 65-5-209 and the price cap methodology approved by this Authority. After analyzing the overall price cap filing, the Authority finds that BellSouth's PRI and SPI indices for basic and non-basic services have been calculated in accordance with Tenn Code Ann. § 65-5-209 and the methodology approved by the Authority, including all orders issued concerning BellSouth's price cap filings in prior years.

The PRI represents the overall amount that rates can be increased pursuant to the inflationary index set forth in Tenn Code Ann. § 65-5-209(e). This annual indexing methodology (PRI) allows a price regulated company to increase its overall revenues by the lesser of one half (½) the percentage change in inflation or inflation minus two (2) percentage points. Since this past year's change in inflation was 1.5%,⁸ BellSouth will not accumulate headroom as a result of the statutory formula.

The SPI calculates the difference in prices from the initial date that a LEC enters price regulation and current prices. If a company reduces its overall prices and associated revenues, then the company accumulates revenue headroom for which other rates can be increased. The Authority finds that BellSouth's overall current prices and revenues are less than the maximum prices allowed under Tenn Code Ann. § 65-5-209, thus creating headroom for which future rate increases may be

⁷ See *In re BellSouth Telecommunications, Inc. Computation of Price Regulation Index and Service Price Index*, Docket No. 00-00545, *Order Approving Price Regulation Filing by BellSouth Telecommunications, Inc.* (December 18, 2001).

⁸ Inflation is measured using the Gross Domestic Product-Price Index (GDP-PI). The inflationary rate submitted by BellSouth was verified via the published historical measures by the SURVEY OF CURRENT BUSINESS.

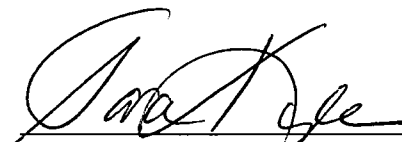
made. Specifically, BellSouth's calculations indicate that it has approximately \$7.5 million in available headroom for its basic services⁹ and \$15.2 million for its non-basic services.

Upon careful review of BellSouth's computation of its Price Regulation Index and Service Price Index filing for basic and non-basic services and of the entire record in this matter, the panel voted unanimously to approve BellSouth's 2003 price regulation filing.

IT IS THEREFORE ORDERED THAT:

BellSouth's Computation of its 2003 Price Regulation Index and Service Price Index for basic and non-basic services, filed on June 1, 2004, is approved.


Deborah Taylor Tate, Director


Sara Kyle, Director


Ron Jones, Director

⁹ Although BellSouth has \$7.5 million in headroom in its basic services category, Tenn. Code Ann. § 65-5-209(f) limits annual residential rate increases to the percentage change in inflation. Accordingly, residential rates can only be increased by a maximum of 1.5% for the upcoming year.